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11 Attorneys for Defendant Maggy London
12 International, Ltd.

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 WONGAB CORPORATION, a Korean
16 Corporation,

17 Plaintiff,

18 vs.

19 NORDSTROM, INC. a Washington
20 corporation, individually and doing
21 business as "Nordstrom Rack"; MAGGY
22 LONDONG INTERNATIONAL, LTD. a
23 New York Corporation, individually and
24 doing business as "IVY + BLUE";
25 HALOGEN, a business entity of form
26 unknown; JONATHAN SIMKHAI, INC., a
27 New York Corporation; LABEL BY 512, a
28 business entity of form unknown; and
DOES 1-10,

Defendants.

Case No. 2:17-CV-02974-AB-AGR

**ANSWER OF MAGGY LONDON
INTERNATIONAL, LTD. TO
SECOND AMENDED COMPLAINT**

Complaint Filed: April 19, 2017
Trial Date: None Set

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EST. 1981

1 Defendant Maggy London International, Ltd.. (“Defendant”) hereby answers
2 Plaintiff’s unverified Second Amended Complaint. In response to all paragraphs of
3 Plaintiff’s Complaint, Defendant denies each and every allegation except as expressly
4 admitted herein. Defendant responds specifically to Plaintiff’s allegations as follows:
5

6 **ANSWER TO INTRODUCTION**

7 In response to the allegations in the introduction, Defendant denies the
8 allegations of infringement. As to the remaining allegations, Defendant lacks
9 knowledge or information sufficient to form a belief about the truth of the allegations.

10 **ANSWER TO ALLEGATIONS REGARDING JURISDICTION AND VENUE**

11 1. In response to paragraph 1 of the Complaint, Defendant admits that
12 Plaintiff alleges claims relating to copyright and patent.

13 2. In response to paragraph 2 of the Complaint, Defendant admits that this
14 Court has federal question jurisdiction.

15 3. In response to paragraph 3 of the Complaint, Defendant denies the
16 allegations.

17 **ANSWER TO ALLEGATIONS REGARDING PARTIES**

18 4. In response to paragraph 4 of the Complaint, Defendant lacks knowledge
19 or information sufficient to form a belief about the truth of the allegations.

20 5. In response to paragraph 5 of the Complaint, Defendant lacks knowledge
21 or information sufficient to form a belief about the truth of the allegations.

22 6. In response to paragraph 6 of the Complaint, denies the allegations.

23 7. In response to paragraph 7 of the Complaint, Defendant lacks knowledge
24 or information sufficient to form a belief about the truth of the allegations.

25 8. In response to paragraph 8 of the Complaint, Defendant lacks knowledge
26 or information sufficient to form a belief about the truth of the allegations.

27 9. In response to paragraph 9 of the Complaint, Defendant lacks knowledge
28 or information sufficient to form a belief about the truth of the allegations.

1 10. In response to paragraph 10 of the Complaint, Defendant denies the
2 allegations.

3 **ANSWER TO ALLEGATIONS REGARDING**
4 **CLAIMS RELATED TO DESIGN PCM-2299, D69, D153**

5 11. In response to paragraph 11 of the Complaint, Defendant lacks knowledge
6 or information sufficient to form a belief about the truth of the allegations.

7 12. In response to paragraph 12 of the Complaint, Defendant lacks knowledge
8 or information sufficient to form a belief about the truth of the allegations.

9 13. In response to paragraph 13 of the Complaint, Defendant denies the
10 allegations against it. As to the allegations against other defendants, Defendant lacks
11 knowledge or information sufficient to form a belief about the truth of the allegations.

12 14. In response to paragraph 14 of the Complaint, Defendant denies the
13 allegations against it. As to the allegations against other defendants, Defendant lacks
14 knowledge or information sufficient to form a belief about the truth of the allegations.

15 15. In response to paragraph 15 of the Complaint, Defendant denies the
16 allegations against it. As to the allegations against other defendants, Defendant lacks
17 knowledge or information sufficient to form a belief about the truth of the allegations.

18 16. In response to paragraph 16 of the Complaint, Defendant denies the
19 allegations against it. As to the allegations against other defendants, Defendant lacks
20 knowledge or information sufficient to form a belief about the truth of the allegations.

21 **ANSWER TO ALLEGATIONS REGARDING**
22 **CLAIMS RELATED TO U.S. PATENT NO. 8,448,476**

23 17. In response to paragraph 17 of the Complaint, Defendant states that the
24 patent identified in the Complaint in all respects speaks for itself, and therefore the
25 allegations require no response.

26 18. In response to paragraph 18 of the Complaint, Defendant lacks knowledge
27 or information sufficient to form a belief about the truth of the allegations.
28

1 19. In response to paragraph 19 of the Complaint, Defendant states that the
2 patent identified in the Complaint in all respects speaks for itself, and therefore the
3 allegations require no response.

4 20. In response to paragraph 20 of the Complaint, Defendant denies the
5 allegations against it. As to the allegations against other defendants, Defendant lacks
6 knowledge or information sufficient to form a belief about the truth of the allegations.

7 21. In response to paragraph 21 of the Complaint, Defendant denies the
8 allegations against it. As to the allegations against other defendants, Defendant lacks
9 knowledge or information sufficient to form a belief about the truth of the allegations.

10 22. In response to paragraph 22 of the Complaint, Defendant denies the
11 allegations against it. As to the allegations against other defendants, Defendant lacks
12 knowledge or information sufficient to form a belief about the truth of the allegations.

13 **ANSWER TO FIRST CLAIM FOR RELIEF**

14 **(For Copyright Infringement)**

15 23. In response to paragraph 23 of the Complaint, Defendant incorporates the
16 responses in the preceding paragraphs of this Answer to the same extent paragraph 23
17 of the Complaint incorporates the allegations contained in the preceding paragraphs in
18 the Complaint.

19 24. In response to paragraph 24 of the Complaint, Defendant denies the
20 allegations against it. As to the allegations against other defendants, Defendant lacks
21 knowledge or information sufficient to form a belief about the truth of the allegations.

22 25. In response to paragraph 25 of the Complaint, Defendant denies the
23 allegations against it. As to the allegations against other defendants, Defendant lacks
24 knowledge or information sufficient to form a belief about the truth of the allegations.

25 26. In response to paragraph 26 of the Complaint, Defendant denies the
26 allegations against it. As to the allegations against other defendants, Defendant lacks
27 knowledge or information sufficient to form a belief about the truth of the allegations.
28

1 27. In response to paragraph 27 of the Complaint, Defendant denies the
2 allegations against it. As to the allegations against other defendants, Defendant lacks
3 knowledge or information sufficient to form a belief about the truth of the allegations.

4 28. In response to paragraph 28 of the Complaint, Defendant denies the
5 allegations against it. As to the allegations against other defendants, Defendant lacks
6 knowledge or information sufficient to form a belief about the truth of the allegations.

7 29. In response to paragraph 29 of the Complaint, Defendant denies the
8 allegations against it. As to the allegations against other defendants, Defendant lacks
9 knowledge or information sufficient to form a belief about the truth of the allegations.

10 30. In response to paragraph 30 of the Complaint, Defendant denies the
11 allegations against it. As to the allegations against other defendants, Defendant lacks
12 knowledge or information sufficient to form a belief about the truth of the allegations.

13 **ANSWER TO SECOND CLAIM FOR RELIEF**

14 **(For Patent Infringement)**

15 31. In response to paragraph 31 of the Complaint, Defendant incorporates the
16 responses in the preceding paragraphs of this Answer to the same extent paragraph 31
17 of the Complaint incorporates the allegations contained in the preceding paragraphs in
18 the Complaint.

19 32. In response to paragraph 32 of the Complaint, Defendant denies the
20 allegations against it. As to the allegations against other defendants, Defendant lacks
21 knowledge or information sufficient to form a belief about the truth of the allegations.

22 33. In response to paragraph 33 of the Complaint, Defendant denies the
23 allegations against it. As to the allegations against other defendants, Defendant lacks
24 knowledge or information sufficient to form a belief about the truth of the allegations.

25 34. In response to paragraph 34 of the Complaint, Defendant denies the
26 allegations against it. As to the allegations against other defendants, Defendant lacks
27 knowledge or information sufficient to form a belief about the truth of the allegations.
28

1 **ANSWER TO PRAYER**

2 Defendant denies that Plaintiff is entitled to the relief sought in the Prayer for
3 Relief and its various subparts.

4 **AFFIRMATIVE DEFENSES**

5 Without conceding that any of the following necessarily must be pleaded as an
6 affirmative defense, or that any of the following is not already at issue by virtue of the
7 foregoing denials, and without prejudice to Defendant's right to plead additional
8 defenses as discovery into the facts of the matter warrant, Defendant hereby asserts the
9 following affirmative defenses:

10 **FIRST AFFIRMATIVE DEFENSE**

11 **(Failure to State a Claim)**

12 1. The Complaint is barred on the grounds that it fails to state a claim upon
13 which relief can be granted.

14 **SECOND AFFIRMATIVE DEFENSE**

15 **(Statute of Limitations)**

16 2. On information and belief, the Complaint, and each and every claim for
17 relief therein, is barred by the applicable statute of limitations, including Section 507 of
18 the Copyright Act.

19 **THIRD AFFIRMATIVE DEFENSE**

20 **(Invalidity of Copyright)**

21 3. The claims for copyright infringement are barred on the grounds that the
22 copyright is invalid, including because the purported copyright is for a useful object.

23 **FOURTH AFFIRMATIVE DEFENSE**

24 **(Unclean Hands)**

25 4. On information and belief, Plaintiff's claims are barred by the doctrine of
26 unclean hands, including on the grounds that Plaintiff intentionally injected its designs
27 into markets where it allowed them to be copied for the purpose of bringing lawsuits.
28

FIFTH AFFIRMATIVE DEFENSE

(Release, Waiver, and Estoppel)

5. Plaintiff's claims are barred by the doctrines of release, waiver, and estoppel for which a reasonable opportunity for investigation or discovery is likely to provide evidentiary support.

SIXTH AFFIRMATIVE DEFENSE

(Acquiescence)

6. Plaintiff's claims are barred by the doctrine of acquiescence in that Plaintiff acquiesced to the alleged infringements, upon information and belief, based in part upon Plaintiff's conduct of waiting before filing its claim.

SEVENTH AFFIRMATIVE DEFENSE

(Failure to Mitigate Damages)

7. Plaintiff's claims are barred by its failure to mitigate damages, including as a result of its alleged injection of its works into markets where it allowed them to be copied for the purpose of bringing lawsuits. Consequently, any damages awarded to Plaintiff should be barred or reduced accordingly.

EIGHTH AFFIRMATIVE DEFENSE

(No Registration)

8. Plaintiff's claims for statutory damages and attorney's fees under the Copyright Act are barred on the grounds that Plaintiff failed to register the works in the United States.

NINTH AFFIRMATIVE DEFENSE

(Misuse of Copyright)

9. On information and belief, Plaintiff's claims are barred because of its anti-competitive intent and conduct, its misuse of its purported copyrights and its abuse of the judicial process for which a reasonable opportunity for investigation or discovery is likely to provide evidentiary support. On information and belief, Defendant alleges that, among other things, Plaintiff intentionally injected its design into the market under

1 circumstances that it knew would lead to copying, took no precautions to protect against
 2 copying, allowed them to be copied, and then sought out similar designs for the express
 3 purpose of filing lawsuits. By filing copyright lawsuits and demanding disgorgement of
 4 profits from each entity in the distribution chain, Plaintiff seeks to use the Copyright
 5 law to obtain windfalls far greater than Plaintiff could have obtained had it properly
 6 exploited its copyrights.

7 **TENTH AFFIRMATIVE DEFENSE**

8 **(Scene a Faire and/or Merger)**

9 10. Defendant asserts that Plaintiff's claims are barred or limited by the *scenes*
 10 *a faire* and/or merger doctrine in that, among other things, Plaintiff's alleged
 11 copyrighted design is ordinary, commonplace, or standard in the relevant art or
 12 industry.

13 **ELEVENTH AFFIRMATIVE DEFENSE**

14 **(Profits Limited by Apportionment)**

15 11. To the extent Defendant earned any profits that are attributable to the
 16 alleged infringement of Plaintiff's rights (which Defendant denies), those profits are
 17 attributable to factors other than the infringement.

18 **TWELFTH AFFIRMATIVE DEFENSE**

19 **(Independent Creation)**

20 12. On information and belief, the work that is alleged to infringe Plaintiff's
 21 copyright was independently created.

22 **THIRTEENTH AFFIRMATIVE DEFENSE**

23 **(Invalidity of Patent)**

24 13. On information and belief, Plaintiff's claim for patent infringement is
 25 barred on the grounds that the patent is not valid.

26
 27 ///

28 ///

1 Defendant reserves the right to allege additional affirmative defenses as they may
2 become known, or as they evolve during the litigation, and to amend this Answer
3 accordingly.

4
5 **PRAYER FOR RELIEF**

6 Wherefore, Defendant prays for judgment as follows:

7 1. That Plaintiff take nothing by reason of its Complaint in this matter and
8 that judgment be rendered in favor of Defendant;

9 2. That Defendant be awarded its costs of suit in this matter, including
10 reasonable attorneys' fees; and

11 3. For such other and further relief as the Court deems just and proper.
12

13 Dated: November 3, 2017

CALL & JENSEN
A Professional Corporation
Scott P. Shaw
Samuel G. Brooks

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17 By: /s/ Samuel G. Brooks
Samuel G. Brooks

18 Attorneys for Defendant Maggy London
19 International, Ltd.
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DEMAND FOR JURY TRIAL

Defendant hereby demands a jury trial on all issues so triable.

Dated: November 3, 2017

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